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League Executive Director Jerry Deschane's statement on Michigan Supreme Court Striking Down Dark Store Tax Avoidance Strategy

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Last week the Michigan Supreme Court denied an appeal from big box retailer Menard Inc., effectively ending the so-called "dark store" practice of property valuation in that state. The Michigan Supreme Court denied Menard Inc.'s request for an appeal in its lawsuit against the City of Escanaba. The order upheld a May 2016 ruling by the Michigan Court of Appeals, stating that the Michigan Tax Tribunal erred in its ruling against the city of Escanaba in an appeal of the property tax assessment on a Menards store that was based on the dark store theory.

The decision is a victory for Michigan groups that have been fighting to end the practice that allows retailers to argue that newly built and open stores should be assessed as though they were closed and boarded up businesses.

"Indiana passed legislation in 2016 closing the dark store loop hole in that state and now the Michigan courts have ended the dark store tax avoidance strategy there. The Wisconsin legislature needs to follow our neighbors' lead and make sure that the dark store loophole cannot be used here. The Legislature has an opportunity to do so in the next two weeks by passing SB 292 (Dark Store) and SB 291 (reversing the Walgreens decision). Homeowners and local businesses are waiting for common sense and fairness to be restored to the assessment of commercial properties in Wisconsin. If this legislation does not pass, the tax avoidance strategies being used by big box stores and other commercial property owners will continue to cause even more of the tax burden to shift to homeowners and local business owners."

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